

**IN THE COURT OF CRIMINAL APPEALS  
FOR THE STATE OF TEXAS  
AUSTIN, TEXAS**

FILED  
COURT OF CRIMINAL APPEALS  
10/31/2017  
DEANA WILLIAMSON, CLERK

**SAMUEL UKWUACHU,  
Respondent**

vs.

**THE STATE OF TEXAS,  
Appellant**

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**NO. PD-0366-17**

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**MOTION IN OPPOSITION TO STATE'S SECOND MOTION TO  
EXTEND TIME FOR FILING IT'S BRIEF ON DISCRETIONARY  
REVIEW OF THE COURT OF APPEALS FOR THE TENTH DISTRICT**

\* \* \* \* \*

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ATTORNEY FOR RESPONDENT  
(ON APPEAL ONLY)

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**TO THE HONORABLE JUDGES OF SAID COURT:**

COMES NOW **SAMUEL UKWUACHU**, Respondent in the above-entitled and numbered cause, by and through his attorney of record, **WILLIAM A. BRATTON III** and, pursuant to **TEX. R. APP. PROC. 10.1** requests the Court to deny the State's Second Motion to Extend Time for Filing It's Brief. In support thereof, the Respondent would respectfully show the Court as follows:

1. By Order dated September 13, 2017, the Court granted the State's Petition for Discretionary Review and ordered that the State's Brief was to be filed within thirty (30) days.
2. On October 2, 2017, the Court was notified that the Office of the State Prosecuting Attorney would represent the State in this matter.

3. On October 10, 2017, the State Prosecuting Attorney was granted access to the sealed portion of the record in this case.

4. By Order dated October 13, 2017, the Court granted the State Prosecuting Attorney's Motion for Extension of Time to File the State's Brief. The filing was extended until Monday, October 30, 2017. The Court further noted "NO FURTHER EXTENSIONS WILL BE ENTERTAINED."

5. On October 30, 2017, the *Amici Curiae's Brief In Support of The State of Texas* was tendered to the Clerk of the Court.

6. On October 30, 2017, at approximately 10:00 p.m., the State's Second Motion to Extend Time for Filing It's Brief was tendered to the Clerk of the Court. The request was for an extension to November 3, 2017.

7. The Opinion reversing the Respondent's Judgment of Conviction by the Tenth Court of Appeals was dated March 22, 2017. The Respondent has fully complied with all time restraints placed upon it by any appellate court and is asking that the same be applied to The State of Texas. The Respondent requests that the State's Petition for Discretionary Review be dismissed as improvidently granted, based on the State's failure to timely prosecute, and that this matter be timely disposed of so that Respondent may address whatever issues remain following the reversal of his Judgment of Conviction.

WHEREFORE, PREMISES CONSIDERED, the Respondent prays that the State's Second Motion to Extend Time for Filing It's Brief be in all things denied.

Respectfully submitted,

/s/WILLIAM A. BRATTON III  
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**ATTORNEY FOR RESPONDENT**

### **CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify that a true and correct copy of the above and foregoing motion was forwarded by electronic filing on this 31<sup>st</sup> day of October, 2017 on the following:

Sterling Harmon  
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/s/WILLIAM A. BRATTON III  
**WILLIAM A. BRATTON III**  
**ATTORNEY FOR RESPONDENT**